IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 2428 of 2005

Between:

Kumar Metallurgical Corporation Limited,
Having its registered office at Vattimarthi Village,
Chityal Mandal, Nalgonda District and represented by its
Director Mr. M. Narayan Reddy.

..... PETITIONER

AND

1 Asset Reconstruction Company (India) Limited, 17th Floor, Express Towers,

Nariman Point, Mumbai - 400 021.
2 Manaksia Limited, having its registered office at 8/1, Lalbazaar Street,
Calcutta, and branch office at No. 38, Sunder Nagar, Hyderabad-38.
3 Mr. Anil Kumar Agarwal. s/o Om Prakash Agarwal,
R/o 10-3-3/14, East Marredpally, Secunderabad.

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order, direction more particularly in the nature of Writ of

Mandamus declaring the order dated 10-2-2005 passed by the Debts Recovery Appellate Tribunal at Chennai, in
IN 36/2005 & IN 37/2005 as being highly arbitrary, illegal, null and void and contrary to principles of natural justice and equity and also against the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Financial Interest Act, 2002 and rules made there under, the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and rules made there under and consequently set aside the same and pass such other orders as this Hon'ble Court deems fit and proper in the interest of justice.

Counsel for the Petitioner :Sri E.Manohar, senior counsel for
Sri S.RAVI

Counsel for the Respondents : Sri S.R.Ashok, senior counsel for

Sri S.Niranjan Reddy for R-1

Sri Nooty Ram Mohan Rao for Sri MilanG.Gokhale for R-2

Sri K.V.Simhadri for R-3

The Court made the following :

ORAL ORDER: (Per Hon'ble the Chief Justice)

On 07th February, 2005, an order was passed in S.A.No.15 of 2005 by Debt Recovery Tribunal, Hyderabad, allowing the said application and setting aside the proceedings initiated by the first respondent herein under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Admittedly, as against the said order, two separate appeals – IN No.36 and IN No.37 of 2005 – have been filed before the Debt Recovery Appellate Tribunal at Chennai. Appeals have been taken up on 10th February, 2005 in the presence of counsel for the petitioner herein as well as counsel for three respondents, and they were heard. The Debt Recovery Appellate Tribunal also perused the proceedings including the order dated 07th February, 2005 and passed an interim order of stay. In other words, the order of Debts Recovery Tribunal, Hyderabad, dated

07th February, 2005 was stayed, pending admission of the respective appeals. Appeals are posted for admission on

28th February, 2005. Petitioner herein, instead of approaching the appellate authority itself seeking appropriate relief, has questioned the legality and validity of those proceedings before us on the ground that appellate authority has no authority

or jurisdiction to stay the order passed on 07th February, 2005 by the Debts Recovery Tribunal, Hyderabad, and therefore wants us either to suspend the order of appellate authority, or to grant the order of *status quo* as regards possession of the factory of the petitioner.

Once there is an appeal preferred under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Debt Recovery Appellate Tribunal at Chennai is seized of the appeal, the mere fact that there is no formal order of admission will not enable the petitioner to invoke the jurisdiction of this Court under Article 226 of the Constitution of India. Remedy of the petitioner would be to approach the Debt Recovery Appellate Tribunal, Chennai, for appropriate orders of whatever nature the petitioner herein would like to have. It will not be appropriate for us, when Debt Recovery Appellate Tribunal, Chennai, is seized of the appeal, to intervene. The mere fact that appeals filed by respondents 1 and 2, respectively, are yet to be numbered or admitted, which are only some procedural lags or steps in aid of any of the appeals, will not make the orders without jurisdiction. The appellate authority had jurisdiction to pass interim orders while retaining the appeal and then pass formal orders for admission.

With leave and liberty granted to the petitioner to approach the Debts Recovery Appellate Tribunal at Chennai, for appropriate relief, the writ petition is dismissed.

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DEVINDER GUPTA, C.J.

B.SESHASAYANA REDDY, J

14-02-2005

bsc

... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Asset Reconstruction Company (India) Limited, 17th Floor, Express Towers,

Nariman Point, Mumbai - 400 021.

2 Manaksia Limited, having its registered office at 8/1, Lalbazaar Street, Calcutta, and branch office at No. 38, Sunder Nagar, Hyderabad-38.

3 Mr. Anil Kumar Agarwal. s/o Om Prakash Agarwal, R/o 10-3-3/14, East Marredpally, Secunderabad.

4. 1 cc to Sri S.Ravi, Advocate (OUT)

5. 1 cc to Sri S.Niranjan Reddy, Advocate (OUT)

6. 1 cc to Sri Milind G.Gokhale, Advocate (OUT)

7. 1 cc to K.V.Simhadri, Advocate (OUT)

*Form-NIC-OGS/WP{**AVLR**}*